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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,523	01/22/2002	George M. White	2222.0820005	5053

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

LERNER, MARTIN

ART UNIT	PAPER NUMBER
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2626

MAIL DATE	DELIVERY MODE
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05/17/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/057,523

Applicant(s)

WHITE ET AL.

Examiner

MARTIN LERNER

Art Unit

2626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 May 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Martin Lerner/
Primary Examiner, Art Unit 2626

Continuation of 11. does NOT place the application in condition for allowance because:

Applicants make a reasonable argument for the patentability of independent claims 59, 66, 73, 81, and 83, concentrating on the counter-arguments in the rejection directed to the VCR of Figure 4, but it is maintained that the features that Applicants are arguing are disclosed by Odinak in Figure 5. An audio system 20 has an audio receiver 50 that is connected to receive an audio signal over home electrical wiring, where audio receiver 50 is tunable to any of twenty available high-bandwidth audio channels. Additionally, audio system 20 has a control receiver 54 that receives control data using the low-bandwidth channel. (Column 5, Lines 5 to 20: Figure 5) Thus, Figure 5 clearly shows that audio system 20 receives high-bandwidth audio data over a high-bandwidth channel and low-bandwidth control signals over a low-bandwidth channel.

Notably, independent claims 66 and 73, directed to a method and computer-readable medium, do not actually require that a transceiver transmits both the high-bandwidth audio data and the low-bandwidth control data, only that the high-bandwidth and low-bandwidth channels transmit the data. Moreover, the rejection relies only on the language of the channels transmitting the data, rather than a transceiver transmitting the data, to be taught by Odinak. Thus, the rejection is proper.

Odinak discloses that controller 22 has a control receiver and a control transmitter that transmits control data using the low-bandwidth channel, and sets up a 'virtual connection' for the high-bandwidth audio data, so that controller 22 can be considered as a transceiver for high-bandwidth channels, too. (Column 5, Line 58 to Column 6, Line 11: Figure 1) While the independent claim language expressly quoted by Applicants only requires that a high bandwidth channel and a low bandwidth channel are configured to transmit the data, rather than that a transceiver is required to transmit both data, Odinak suggests that controller 22 can be implemented as a small computer, which is an overall framework for transmitting both the low-bandwidth and high-bandwidth data. Furthermore, it is reiterated that it would be an obvious expedient to integrate this function of a transceiver into receiver 46 and transmitter 50 of communications center 42 of Jacobs et al. because communications center 42 is responsible for transmitting all the information of Jacobs et al.